



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3277

Introduced 2/19/2016, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.875 new

Creates the Public-Private Partnerships Act. Defines terms. Establishes the Office of Public-Private Partnerships within the Executive Branch. Provides that the Office shall provide public agencies, units of local government, and private entities assistance and expertise on public-private partnership agreements. Allows any public agency, with approval from the Office, to enter into a public-private partnership agreement with any private entity for improving transportation assets, public buildings, public services, or other public assets. Provides that within 90 days after the effective date of the Act, the Office shall establish procedures and guidelines for the submission, evaluation, and approval of projects. Creates the Local Alternative Procurement Fund as a special fund in the State treasury. Provides that money in the Local Alternative Procurement Fund shall be appropriated to public agencies and shall be used for the development, financing, and operation of transportation assets, public buildings, public services, and other public assets. Makes a corresponding change in the State Finance Act. Effective July 1, 2016.

LRB099 18605 AXK 42987 b

1 AN ACT concerning public private partnership agreements.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 Private Partnerships Act.

6 Section 5. Definitions. As used in this Act:

7 "Office" means the Office of Public-Private Partnerships.

8 "P3 project" means a contractual agreement between a public
9 entity and a private entity that:

10 (1) transfers the responsibility of a facility's
11 engineering, construction, operation, or maintenance to
12 the private sector for a defined period of time;

13 (2) allows the private sector to perform by contract a
14 service previously provided by the public sector; and

15 (3) ensures the private entity receives payments from
16 either existing revenue sources or through the collection
17 of new tolls or user fees.

18 "Private entity" means a person, entity, group, or
19 organization that is not the federal government, the State, or
20 other public agency.

21 "Project" means an undertaking by a private entity or a
22 public agency to provide or improve a public asset, public
23 building, public service, or transportation asset which is

1 totally or partially located within the State.

2 "Public agency" means any municipality or unit of local
3 government, any public school district, any public college or
4 university, any public building commission, the State, an
5 instrumentality or administrative agency, or any other agency
6 of the State or of the United states, or of any other state,
7 any political subdivision of another state, and any combination
8 of the above under an intergovernmental agreement which
9 includes provisions for a governing body of the agency created
10 by the agreement.

11 "Public asset" means any proposed existing park, clean
12 water system, waste water system, energy asset,
13 telecommunications asset, transportation asset, or any other
14 asset owned by a public agency.

15 "Public building" means any proposed or existing school,
16 community center, fire station, police station, community
17 college, university, hospital, library, or other building
18 owned by a public agency.

19 "Public-private partnership agreement" means a contract
20 for a project which transfers rights for the use or control, in
21 whole or in part, of a public building, public service, public
22 asset, or transportation asset, by a public agency to a
23 development entity for a definite term during which the
24 development entity will provide the project to the public
25 agency in return for the right to receive all or a portion of
26 the revenue generated from the use of the facility, or other

1 payment, such as the following services: operations and
2 maintenance; revenue collection; user fee collection or
3 enforcement; design; construction; development; and other
4 activities that expand or enhance existing or new public
5 buildings, public assets, public services, or transportation
6 assets.

7 "Public service" means any proposed or existing service
8 performed or provided by a public agency or private entity.

9 "Transportation asset" means a proposed or existing road,
10 toll highway, bridge, tunnel, overpass, ferry, bus way,
11 guideway, public transportation facility, vehicle parking
12 facility, port facility, commercial and public navigation lock
13 and dam, commercial waterway, multimodal transportation
14 facility, airport, station, hub, terminal or similar facility
15 used or to be used for the transportation of persons, animals,
16 or goods, together with any buildings, structures, parking
17 areas, appurtenances, intelligent transportation systems, and
18 other property needed to operate or related to the operation of
19 the transportation facility. The term includes any
20 improvements or substantial enhancements or modifications to
21 an existing transportation facility.

22 Section 10. The Office of Public-Private Partnerships.

23 (a) The Office of Public-Private Partnerships is hereby
24 created within the Executive branch.

25 (b) The Office shall have the following duties:

1 (1) Create an open platform to promote the development,
2 financing, and operation of public-private partnership
3 agreements.

4 (2) Provide assistance and expertise on public-private
5 partnership agreements to other public agencies, units of
6 local government, and private entities, in areas
7 including, but not limited to:

8 (A) analyzing the benefits and costs, including
9 various finance options, of potential P3 projects;

10 (B) providing sample and template public-private
11 partnership agreement contracts;

12 (C) discussing developing trends in other states
13 and countries; and

14 (D) providing other financial and legal
15 assistance.

16 (3) Develop and maintain a database of potential P3
17 projects in this State as well as all proposed, ongoing,
18 and completed P3 projects.

19 (4) Promote standardized methodologies and other
20 uniform practices, transparency, and information sharing
21 in public-private partnership agreements.

22 (5) At least once a year, conduct workshops or other
23 outreach events with appropriate federal, State, or local
24 government entities to attract private entities into the
25 field of public-private partnership agreements and to
26 measure the private sector's interest in the agreements,

1 gauge possible future risks of entering into the
2 agreements, discuss possible allocations of those risks,
3 and other topics that may affect the ability of
4 public-private partnerships to succeed in this State.

5 (6) Adopt rules as necessary to carry out the duties
6 and purposes of this Act.

7 Section 15. Public-private partnership agreements.

8 (a) Any public agency may enter into a public-private
9 partnership agreement with any private entity for improving
10 transportation assets, public buildings, public services, or
11 other public assets as provided in this Act.

12 (b) The Office shall review and approve public-private
13 partnership projects in this State, except those entered into
14 under the Public-Private Partnerships for Transportation Act.

15 (c) Within 90 days after the effective date of this Act,
16 the Office shall establish:

17 (1) Procedures by which a public agency can submit a
18 project for potential financing through a public-private
19 partnership agreement, which shall require submission of a
20 project statement that describes the rationale behind the
21 project, contains a site analysis and an initial project
22 design, identifies funding sources and cost estimates,
23 provides scheduled times for major events, and identifies
24 other public agencies potentially impacted by the project.

25 (2) Clearly defined requirements for submitting

1 projects for approval, including, but not limited to, a
2 requirement that a proposal demonstrates that:

3 (A) the project is part of a long-term plan of the
4 public agency;

5 (B) the project is not currently in a bid process
6 under traditional procurement methods; and

7 (C) local, State, or federal officials have had an
8 opportunity to weigh in on the project, or the local
9 jurisdiction of the public agency has voted to submit
10 the project.

11 (3) Guidelines for allowing more than one public agency
12 to enter into a single public-private partnership.

13 (4) Clear standards for project approval, including,
14 but is not limited to:

15 (A) Criteria for the project assessment,
16 consideration, and final decision. The Office shall
17 label the project as either not eligible for a
18 public-private agreement, eligible to be joined with
19 another P3 project, or eligible as an individual P3
20 project. If the project is approved, the public agency
21 has 60 days to acquire title to the site, or rights of
22 use to the site, to carry out the project. The Office
23 may grant an extension for a situation beyond the
24 public agency's control, as determined by the Office.
25 If the project is deemed not eligible for a
26 public-private agreement, the public agency may

1 re-submit the same project the following fiscal year.

2 (B) A requirement that the Office shall evaluate
3 and render a final decision within 6 months of
4 submission of the project to the Office.

5 (C) A requirement that the Office shall make public
6 all findings of the assessment, including the final
7 score and category of the project, rationale behind the
8 decision, sources of funding, comparisons to similar
9 projects, and any areas of concern.

10 (D) A requirement that the Office shall submit an
11 annual report to the Governor and the General Assembly
12 detailing all projects evaluated, adopted, and
13 completed.

14 (d) All P3 projects under this Section shall be subject to
15 any applicable planning requirements, including, but not
16 limited to, land use planning, regional planning,
17 transportation planning, and environmental compliance
18 requirements.

19 (e) The net proceeds, if any, arising out of a P3 project
20 shall be deposited into the Local Alternative Procurement Fund,
21 a fund created as a special fund in the State treasury. All
22 moneys in the Local Alternative Procurement Fund shall be
23 appropriated to public agencies and shall be used for the
24 development, financing, and operation of transportation
25 assets, public buildings, public services, or other public
26 assets under this Act.

1 Section 900. The State Finance Act is amended by adding
2 Section 5.875 as follows:

3 (30 ILCS 105/5.875 new)

4 Sec. 5.875. The Local Alternative Procurement Fund.

5 Section 999. Effective date. This Act takes effect July 1,
6 2016.